

## § 954.503

17th Street, N.W., Suite G-2200, Washington, DC 20503; Telephone, (202) 395-7332)) and the following requirements of 24 CFR part 84 apply to subgrantees receiving HOME funds that are private nonprofit organizations: §§84.12, 84.22, 84.23, 84.25, 84.51, 84.52, and 84.71.

(c) *Alternatives to bonding.* For construction contracts that exceed the amount for small purchase under 24 CFR 85.36, each contractor shall be required to provide bid guarantees and adequate assurance of performance and payment acceptable to HUD in accordance with 24 CFR 85.36(h). Performance and payment bonds for 100 percent of the total contract price are acceptable to HUD. There may be circumstances under which the bonding requirements of §85.36(h) are inconsistent with other responsibilities and obligations of the grantee. Alternative methods to provide performance and payment assurance may include:

(1) Deposit with the grantee of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk;

(2) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the grantee, subject to reduction during the warranty period commensurate with potential risk.

### § 954.503 Audit.

Audits of the grantee and subgrantees must be conducted in accordance with 24 CFR parts 44 and 45, as applicable.

### § 954.504 Closeout.

(a) A grant will be closed out when all the following criteria have been met:

(1) All funds to be closed out have been drawn down and expended for completed project costs, or funds not drawn down and expended have been deobligated by HUD;

(2) Project Completion Reports for all projects using funds to be closed out have been submitted. HUD will use data contained in the project completion reports in the preparation of the Closeout Reports;

(3) The grantee has been reviewed and audited and HUD has determined

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that all requirements, including affordability (for which also see paragraph (b)(2) of this section), are met or all monitoring and audit findings have been resolved.

(i) A signed copy of the grantee's most recent audit report—covering all funds to be closed out—must be received by HUD. If the audit review by the Department of Interior (DOI) results in significant delays, the Area ONAP may request a signed copy of the audit prior to DOI review and use it as the document needed prior to closeout. If the audit does not cover all funds to be closed out, the closeout may proceed, provided the grantee agrees in the Closeout Report that any costs paid with the funds that were not audited must be subject to the grantee's next single audit and that the grantee may be required to repay to HUD any disallowed costs based on the results of the audit.

(ii) The on-site monitoring of the grantee by the Area ONAP must include verification of data reflected in the Closeout Report and reconciliation of any discrepancies which may exist between HUD data and grantee records.

(b) The Closeout Report contains the final data on the funds and must be signed by the grantee and HUD. In addition, the report must contain:

(1) A provision regarding unaudited funds ("closeout subject to audit"), required by paragraph (a)(3)(i) of this section; and

(2) A provision requiring the grantee to continue to meet the requirements applicable to housing projects for the period of affordability specified in §954.306 or §954.307, to keep records demonstrating that the requirements have been met and to repay the HOME funds, as required by §954.500, if the housing fails to remain affordable for the required period.

### § 954.505 Recordkeeping.

(a) *General.* Each grantee must establish and maintain sufficient records to enable HUD to determine whether the grantee has met the requirements of this part. Records must be kept in a manner that identifies the source and use of funds for each project.

(b) *Period of record retention.* (1) Except as provided in paragraphs (b)(2),

(b)(3), or (b)(4) of this section, records must be retained for three years after closeout of the funds.

(2) If any litigation, claim, negotiation, audit, or other action has been started before the expiration of the regular period specified in paragraph (b)(1) of this section, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period, whichever is later.

(3) Records regarding project requirements (§954.400 to §954.402) and other federal requirements (§954.4) that apply for the duration of the period of affordability, as well as the written agreement and inspection and monitoring reports must be retained for three years after the required period of affordability specified in §954.306 or §954.307, as applicable.

(4) Records covering displacements and acquisition must be retained for at least three years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with §954.4(e).

(c) *Access to records.* (1) The grantee must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable tribal laws (or State law, which may apply if the Indian tribe is not exercising recognized powers of self-government) regarding privacy and obligations of confidentiality.

(2) HUD and the Comptroller General of the United States, or any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the grantees and subgrantees, in order to make audits, examinations, excerpts, and transcripts.

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#### § 954.506 Performance reports.

(a) *Management reports.* Each grantee must submit management reports on its HOME program in such format and at such time as HUD may prescribe. Each grantee must submit a "Financial Status Report," SF-269A, short form, at the same time it submits the Semi-An-

nual Performance Report, described below. A separate "Financial Status Report" is to be submitted for each Indian HOME program grant that the grantee has received.

(b) *Semi-Annual performance report.* (1) *Submission.* A grantee must submit a semi-annual performance report on its HOME activities to the responsible Area ONAP at such time as HUD may prescribe. Single copies of the report must be provided to the public upon request at no charge.

(2) *Elements of the semi-annual performance report.* The report must contain such information and be in such form as HUD may prescribe, and must include at least the following:

(i) A report on the proposed use of HOME funds from the grant application, consisting of the number of additional housing opportunities to be created for low-income and very low-income families, by project category (housing rehabilitation, acquisition of housing, new housing construction, and tenant-based rental assistance);

(ii) A report on the actual use of HOME funds, consisting of the number of additional housing opportunities created for low-income and very low-income families, by project category (housing rehabilitation, acquisition of housing, new housing construction, and tenant-based rental assistance). This includes a report on project income and includes data on the amount of repayments, interest, and other return on investment of HOME funds and the use of the funds for projects, including number of projects assisted, and characteristics of tenants and owners;

(iii) An assessment of the effectiveness of the efforts in providing the preferences and opportunities under section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); and

(iv) Data on the total number of households (families and individuals) and business and nonprofit organizations displaced as a result of investments of HOME funds, including the cost of relocation payments (moving expenses and replacement housing), and the number and cost of real property acquisitions.

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